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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

PHILIPPINES

1. The Committee considered the initial report of the Philippines on articles 10 to 12 of the Covenant (E/1986/3/Add.17) at its 11th, 12th and 14th meetings on 8 and 9 May 1995 and adopted* the following concluding observations.

A. Introduction

2. The Committee welcomes the appearance before it of a delegation, composed mostly of experts from the capital, and the opportunity to engage in a dialogue with the Government.

3. The Committee notes with regret that no written answers to the list of issues raised by the Committee were given in advance to the members of the Committee, and that only limited written information was made available during the session to the Committee in response to its requests. Partly as a result, some of the questions raised during the discussion were not answered satisfactorily by the delegation.

B. Positive aspects

4. The Committee welcomes the fact that some of the rights guaranteed by the Covenant have been reflected in the Constitution and in domestic legislation. It also notes with appreciation the frankness with which the delegation acknowledged the existence of various problems as identified in section D below.

*At its 29th meeting (twelfth session) on 19 May 1995.

5. The Committee also welcomes the fact that a governmental policy of land distribution exists in the country and that a start has been made with programmes to relocate some evicted and homeless people. The Committee also welcomes the Government's commitment to increase the amount of public expenditure devoted to the housing sector.

6. The Committee notes that efforts are being made by the Government in order to deal with the AIDS pandemic, with the active participation of the WHO.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee observes that economic difficulties, aggravated by a strong migration from the rural to the urban areas and the servicing of the external debt, have had a constraining influence on the implementation of the Covenant.

8. Politico-social obstacles including oligarchical and entrenched conservative religious influences have often times inhibited and aborted attempts to improve the lot of the disadvantaged classes and to remove some of the socio-cultural ills which beset the Philippines.

9. The Committee also notes the highly detrimental consequences of the persisting civil conflict in the south of the country for the effective implementation of economic, social and cultural rights.

D. Principal subjects of concern

10. The Committee was unable to ascertain the precise status of the Covenant in terms of its practical relevance within the judicial system. It notes that the Human Rights Commission has not been accorded judicial powers in relation to human rights matters and that this has been a matter of some controversy within the Philippines. The delegation was unable to give the details of any specific instance in which the Covenant had been successfully applied by domestic courts.

11. With regard to the issue of divorce, the Committee notes the different legal provisions applying in the predominantly Muslim provinces where the Shari'a is given effect and the other parts of the Philippines, where divorce is legally forbidden. The Committee is concerned about the discriminatory aspects of this approach and notes that civil marriage and divorce should be regulated so as to leave to the individuals concerned the duties that religion imposes. The prohibition of divorce often results in the breakdown of families with highly detrimental consequences particularly for abandoned women and children and also for the children of subsequent cohabitations who must, by definition, be born out of wedlock. The Committee also regrets the apparent increase in incidents of domestic violence.

12. The Committee is concerned about the lack of resources devoted by the Government to preventing and combatting the economic and sexual exploitation of children. It notes that the official Government statistics relating to cases of child sexual exploitation are radically lower than apparently more reliable estimates from a variety of other sources. It is not convinced that the Government is doing enough to satisfy its obligations under the Covenant to seek to protect these children. The same observation applies with respect

to the problem of street children. The Committee also expresses regret at the lack of mechanisms to monitor the application of the laws governing the legal minimum age of employment and the protection of children in labour matters, as required by the provisions of the Covenant.

13. The Committee is also concerned about the fact that, in the great majority of detention centres, juverile offenders are detained together with adults, in contravention of international standards. While the Government has acknowledged the need to redress this situation, efforts to date have been excessively modest.

14. The Committee notes with great concern the situation of Filipino overseas workers, especially women who often face hardship and humiliation. It notes that significant problems of family disintegration and juvenile delinquency can accompany such massive exportation of labour.

15. The Committee expresses particular concern at the use of criminal law provisions to deal with problems arising from the inadequacy of housing. It notes in this regard that Presidential Decree (PD) 772 has been used in some cases as a basis for the criminal conviction of squatters and that PD 1818 restricts the right of due process in the case of evictees. While the Committee does not condone the illegal occupation of land nor the usurpation of property rights by persons otherwise unable to obtain access to adequate housing, it believes that in the absence of concerted measures to address these problems resort should not be had in the first instance to measures of criminal law or to demolition.

16. The Committee has received information from a variety of sources indicating that large-scale forced evictions occur frequently and are estimated to have affected hundreds of thousands of persons since the ratification of the Covenant by the Philippines. One figure presented to the Committee asserted that some 15,000 families were forcibly evicted between June 1992 and August 1994. The scale of forced evictions and the manner in which they are carried out are of concern to the Committee. The Government itself acknowledges that planned forced evictions may affect up to 200,000 families, and that the Government has identified only 150,000 relocation sites. If these estimates are correct a very significant number of persons currently threatened with eviction will not receive adequate resettlement. Such a situation would not be compatible with respect for the right to housing.

17. The Committee is unable to accept statements made by the Government to the effect that the Covenant provides no protection from forced eviction. The right to housing cannot be interpreted as being silent in relation to such an issue and the Committee has consistently drawn the attention of other States Parties to this matter.

18. While it is not for the Government itself to build or finance the housing units required to satisfy all of the demand in the country, it should make every effort to ensure that a fair share of the resources available is utilized for making low-cost housing available to the most disadvantaged and vulnerable sectors of society, and enabling the private sector to contribute to that endeavour. The Committee notes, however, that existing expenditures appear to benefit higher income groups at the expense of the poor.

19. The Committee recognizes the Government's commitment to agrarian reform, as reflected in the Comprehensive Agrarian Reform Programme of 1987. It notes, however, that the implementation of the programme suffers as a result of major loopholes, a lack of funding and the lack of implementation measures. It notes that the Government has failed to meet its own targets and that there appears to be a lack of political will to redress the situation. The inadequacy of the agrarian reform programme appears to have had a negative impact upon the full realization of the right to food as enshrined in article 11 of the Covenant.

20. With regard to health services, the Committee notes the Government's plans to privatise and decentralise much of its programme. While there is no reason that the private sector should not be fully involved in the provision of health services, the Committee emphasises that such an approach does not in any way relieve the Government of its Covenant-based obligation to use all available means to promote adequate access to health care services, particularly for the poorer segments of the population. The Committee was unable to receive any assurances from the Government that its current plans have sought to address this issue adequately.

21. In terms of the availability of resources, the Committee notes with concern that a greater proportion of the national budget is devoted to military spending than to housing, agriculture and health combined.

22. The Committee notes with concern that, in the face of a rapidly growing population infected by HIV and AIDS, only several hundred of an affected population estimated by WHO to be in excess of 30,000 have been registered under the Government's programme. This would seem to indicate that the programme is either punitive of those who register or is not adequately publicized and made available to victims of the virus. In addition, the Committee was not provided with any information indicating that the Government is seeking to combat widespread discrimination against the victims of the virus.

E. Suggestions and recommendations

23. The Committee recommends that consideration be given to increasing the proportion of the national budget devoted to slum upgrading programmes, to community mortgage programmes and programmes in the field of health and agriculture designed in particular to benefit the poorer groups in society.

24. The Committee also recommends that greater emphasis should be placed within the framework of official development assistance (ODA) provided by donor countries to support social adjustment programmes for purposes such as the financing of low interest credit to the poorest farmers, slum upgrading and other programmes for housing the poor. The Committee recalls that every effort must be made in times of structural adjustment to ensure that the basic economic, social and cultural rights of the poorest and most disadvantaged sectors of the population are protected to the greatest extent possible.

25. The Committee recommends that more detailed, policy-oriented studies be undertaken in relation to the situation of street children and would appreciate receiving information on the number of persons who have been punished for offenses relating to the sexual exploitation of children.

26. The Committee urges the Government to take all appropriate measures to implement national legislation and the provisions of the Covenant concerning the protection of children from economic and sexual exploitation in particular, and to promote and guarantee the respect of their rights to education, health and housing.

27. The Committee would wish to receive, within one year figures concerning the number, age and sector of activity of working children and the measures taken to reduce their number. It also wishes to receive information as to measures taken to reduce the sexual exploitation of children and the number of street children.

28. While the Committee recognizes that, in relation to the issue of Filipino overseas workers, the Government cannot control such emigration, it believes that more can and should be done to inform and educate existing and potential workers about the difficulties they might face abroad and about their rights.

29. The Committee urges the revision of all legislation which is inconsistent with the full enjoyment of equal rights for women and recommends that stronger judicial and other remedies be made available to redress the grievances of women who suffer from domestic violence.

30. The Committee recommends that the Government institute an emergency plan, which shall include the identification of benchmarks, to expedite the agrarian reform process and to provide mechanisms for the speedy handling of grievances concerning irregularities in the implementation of the CARP. The Committee urges the reform of tenancy legislation relating to peasants.

31. The Government should ensure that forced evictions are not carried out except in truly exceptional circumstances, following consideration of all possible alternatives and in full respect of the rights of all persons affected. The Committee urges the Government to extend indefinitely the moratorium on summary and illegal forced evictions and demolitions and to ensure that all those under threat in these contexts are entitled to due process. The Government should promote greater security of tenure in relation to housing in accordance with the principles outlined in the Committee's General Comment No. 4 and should take the necessary measures, including prosecutions wherever appropriate, to stop violations of laws such as R.A. 7279. In general, the Committee urges that consideration be given to the repeal of PD 772 and PD 1818, and recommends that all existing legislation relevant to the practice of forced evictions should be reviewed so as to ensure its compatibility with the provisions of the Covenant. The Committee considers that, when relocating evicted or homeless persons or families, attention should be paid to the availability of job opportunities, schools, hospitals or health centres, and transport facilities in the areas selected.

32. The Government should consider the establishment of an independent body legally responsible for preventing illegal forced evictions, and for monitoring, documenting and reviewing any ongoing or planned forced evictions. The Presidential Commission on the Urban Poor could also be given an enhanced mandate to protect housing rights, and to collect accurate and reliable indicators and statistics relating to urban problems such as homelessness, forced evictions, the numbers of those relocated, and the number of squatters.

33. The Committee recommends that the provisions of the Covenant should be used as a supplementary guide to the interpretation of relevant domestic legislation and that all relevant domestic courts, tribunals, administrative and other bodies ensure that their decisions are consistent with the obligations contained in the Covenant. In this regard, the Committee recommends the provision of training programmes for the judiciary, the legal profession and other relevant bodies concerning the application of the Covenant.